



SUPPLEMENT TO

The Mysore Gazette.

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BANGALORE, THURSDAY, FEBRUARY 17, 1916.

Abstract Proceedings of the Mysore Legislative Council.

The Council met in the Public Offices Buildings, Bangalore, on Friday, the 8th January 1916, at 12 noon.

PRESENT.

SIR M. VISVESVARAYA, B.A., L.C.E., M.INST., C.E., K.C.I.E., Dewan (Presiding).

Exofficio Members.

1. RAJAMANTRAPRAVINA H. V. NANJUNDAYYA, ESQ., M.A., M.L., C.I.E.,
First Member of Council.
2. M. KANTARAJ URS, ESQ., B.A., C.S.I.,
Second Member of Council.

Additional Members.

Official.

1. RAJAMANTRAPRAVINA DEWAN BAHADUR J. S. CHAKRAVARTI, ESQ.,
M.A., F.R.A.S.
2. K. S. DORASWAMI IYER, ESQ.
3. DEWAN BAHADUR C. SRIKANTESVARA AIYAR, ESQ., B.A., B.L.
4. RAO BAHADUR M. SHAMA RAO, ESQ., M.A.
5. K. R. SRINIVASIENGAR, ESQ., M.A.
6. D. M. NARASINGA RAO, ESQ., B.A., B.L.
7. C. S. DORASWAMI IYER, ESQ., B.A., B.L.

Non-official.

1. RAJASABHABHUSHANA DEWAN BAHADUR K. P. PUTTANNA CHETTY, ESQ.
2. M. CHENGIAH CHETTY, ESQ., B.A.
3. B. K. GARUDACHAR, ESQ.
4. S. VENKATESAIYA, ESQ., B.A., B.L.
5. B. VENKATASHAMANNA, ESQ., B.A., B.L.
6. K. SHANKARANARAYANA RAO, ESQ., M.A., B.L.
7. H. NARASINGA RAO, ESQ.
8. B. V. RAMASWAMI CHETTY, ESQ., B.A.
9. NAWAB GULAM AHMED KALAMI, ESQ.
10. M. BASAVA IYA, ESQ., B.A., B.L.
11. B. NARASINGA RAO, ESQ.
12. M. KARNICK KRISHNAMURTHI RAO, ESQ.
13. C. NARASIMHAIA, ESQ., B.A., B.L.

ABSENT.

1. P. RAGHAVENDRA RAO, ESQ., B.A., B.L.

G. SREENIVASA IYER, ESQ., B.A., M.L. (Secretary).

The Secretary's Report to the Council.

The Secretary reported to the Council :—

- (1) that the following Bills received the assent of His Highness the Maharaja on the dates noted against them :—

The Indian Soldiers Litigation Bill		20th October 1915,
The Bill further to amend the Mysore Mines Regulation, 1906,		13th November 1915,
The Bill further to amend the Mysore Municipal Regulation, 1906,		13th November 1915, and
The Bill further to amend the Civil Courts Regulation, 1883,		26th November 1915, and

- (2) that Messrs. M. Basava Iya, B.A., B.L., B. Narasinga Rao, M. Karnick Krishnamurthi Rao and C. Narasimhaiya, B.A., B.L. took their seats as additional members of the Council to-day.

Questions and Answers.

1. Mr. M. Chengiah Chetty, B.A., asked.—Do not Government consider it desirable to encourage the study of the Ayurvedic and Unani systems of medicine by granting scholarships to some of the medical graduates having the necessary aptitude for the same, so that they may be of great service to such of the public as are unable to pay for English medicines?

Mr. M. Kantaraj Urs, B.A., C.S.I., replied.—The poor are not required to pay any fees in Hospitals and Dispensaries, the levy of small fees being limited to the rich only in the cities of Bangalore and Mysore. Applications from graduates in medicine for scholarships to study Ayurvedic and Unani systems of medicine will receive due consideration.

2. Mr. M. Karnick Krishnamurthi Rao, asked.—(a) Are Government aware of the memorial submitted to His Highness the Maharaja by Mr. T. R. Venkataswami Naidu, late Circle Inspector?

(b) Has any endorsement been given to him?

(c) Is he still on leave and, if so, on what kind of leave?

(d) Will Government be pleased to place the connected papers on the table?

Rajamantrapravina Mr. H. V. Nanjundayya, M.A., M.L., C.I.E., replied:—(a) Yes.

(b) Yes.

(c) He was granted extension of furlough until the 6th May 1914, from which date he was permitted to retire from the service.

(d) Government do not consider that it will serve any useful purpose to place the papers on the table.

Mr. M. Karnick Krishnamurthi Rao then asked.—What was the nature of leave granted to Mr. Venkatasami Naidu just before his retirement?

Rajamantrapravina Mr. H. V. Nanjundayya, M.A., M.L., C.I.E., replied.—He was first given privilege leave. At the end of that period, as his health was bad, he was subjected to a medical examination. Thereafter, he was granted furlough till he was entitled to pension. On considerations of health and other considerations, he was then ordered to retire.

3. Mr. M. Karnick Krishnamurthi Rao asked.—(a) Are Government aware that the M. & S. M. Railway authorities have issued standing passes to Christian Missionaries and will Government be good enough to arrange for similar facilities to Missionaries of Hindu and Mahomedan faiths?

(b) Is there any definite rule in regard to the grant of free passes and will Government be pleased to say who are entitled to get such passes?

Mr. D. M. Narasinga Rao, B.A., B.L., replied.—Yes, but it is likely that such concessions will be abolished in future.

There are no definite rules in regard to complimentary free passes, the matter being left to the discretion of the Chief Engineer and Agent of each Railway Company.

4. Mr. B. Narasinga Rao asked.—(a) Has the attention of Government been drawn to a paragraph in the local news column of the *Vrithantha Patrika* dated 28th October 1915, wherein it is alleged that a certain Engineer in the Cauvery Reservoir Works has misappropriated Government money and that Government have been checking the accounts concerned?

(b) Are the allegations contained in the said paragraph substantially true?

(c) If so, will Government be pleased to inform this Council the result of the enquiry?

Mr. D. M. Narasinga Rao, B.A., B.L., replied.—(a) Yes.

(b) and (c) The matter is under investigation.

5. Mr. Gulam Ahmad Kalami asked.—As the non-official members of this Legislative Council have only limited powers of interpellation and cannot move resolutions and otherwise make effective representations on public matters as in the Imperial and the Provincial Legislative Councils in British India, will Government be pleased to state whether they contemplate the grant of any further powers to the non-official members of this Council, and, if so, in what directions?

Rajamantrapravina Mr. H. V. Nanjundayya, M.A., M.L., C.I.E., replied.—An order has recently been passed allowing members to ask supplementary questions. In view of the powers exercised by the Representative Assembly, Government do not contemplate for the present the grant of any further powers to the Legislative Council.

6. Mr. B. V. Ramaswami Chetty, B.A., asked.—Under Section 82 of the Mysore Municipal Regulation, 1906, every bill shall specify the time within which an appeal may be preferred against the claim and notice of demand shall issue in the form prescribed in Schedule V unless payment is made within fifteen days of the presentation of the bill. Under Section 86 of the Regulation an appeal against the claim should be brought within fifteen days next after service of the notice of demand. A bill is at present apt to be mistaken for notice of demand leading to a

premature appeal. The time within which an appeal may be filed should be specified in the notice of demand rather than in the bill.

Will Government in the above circumstances be pleased to consider the necessity for amending Section 82 and Schedule V of the Regulation?

Mr. M. Kantaraj Urs, B.A., C.S.I., replied.—The suggestion will be duly considered by Government.

7. Mr. B. V. Ramaswami Chetty, B.A., asked.—As by the acquisition of a large number of gardens for the extension of the Cubbon Park in the Bangalore City, many Thigalars have lost their means of livelihood, will Government be pleased to provide these people with lands near the Sunnakal tank or in some other suitable locality, either free of cost or at very moderate prices?

Rajamantrapravina Mr. H. V. Nanjundayya, M.A., M.L., C.I.E., replied.—Liberal compensation has been awarded for the lands concerned. No lands are available near the Government Sunnakal tank farm. Any representation which the Thigalars may wish to make in the matter will receive due consideration by Government, and lands, if available in a suitable locality, will be granted to them at reasonable prices.

8. Mr. K. Shankaranarayana Rao, M.A., B.L., asked.—(a) Will Government be pleased to state the number of cases dealt with under the Mysore Newspapers Regulation?

(b) Do not the figures show that there is no real necessity for continuing the Regulation on the Statute Book?

Mr. D. M. Narasinga Rao, B.A., B.L., replied.—(a) In seven cases warnings were conveyed to the editors concerned.

(b) Not necessarily. It has also its preventive value.

9. Mr. S. Venkatesaiya, B.A., B.L., asked.—Will Government be pleased to state the various areas in which elementary education has been made compulsory under the Regulation together with the following information with reference to each of such areas:—

- (a) date of notification;
- (b) number of children of school-going (compulsory) age;
- (c) number of such children already attending school at the time of notification;
- (d) number of such children who have joined school subsequent to the date of the notification;
- (e) number of exemptions granted;
- (f) number of new schools established; and
- (g) the source from which the additional expenditure has been met?

Rajamantrapravina Mr. H. V. Nanjundayya, M.A., M.L., C.I.E., replied.—A statement* showing the required particulars is placed on the table.

10. Mr. S. Venkatesaiya, B.A., B.L., asked.—(a) With reference to the recent Government Notification about the levy of fees for medical relief, has the attention of Government been drawn to the proceedings of a meeting of the City Municipal Council of Bangalore, where it was stated that Government servants were not affected by the Notification and that they would still continue to get free medical relief?

(b) If the statement is correct, will Government be pleased to state the action they propose to take in the matter?

Mr. M. Kantaraj Urs, B.A., C.S.I., replied.—(a) Yes.

(b) The matter is under the consideration of Government.

11. Mr. H. Narasinga Rao asked.—(a) Will Government be pleased to state whether the standing order of Government in the matter of imparting religious and moral instruction in schools and colleges in the State, is being given effect to so as to produce appreciable results?

(b) If not, is it not time to secure expert advice in the matter and lay down a definite policy for the moral and spiritual progress of our youths?

(c) Is it not practicable to get text books written by experts in the different systems of faith for easy instruction of youths of the respective communities or to organize the delivery of weekly lectures by such experts for the said purpose?

(d) Is it not practicable to compel a student to undergo an examination in the religion in which he is born or which he has adopted, before he is entitled to promotion to the next higher class in any scholastic institution or to appear for a University Examination?

Rajamantrapravina Mr. H. V. Nanjundayya, M.A., M.L., C.I.E., replied.—

(a) The results are not inappreciable. A brief note by the Inspector-General of Education on the working of the system is placed on the table.*

(b) It is not at present considered necessary to go beyond the present arrangements.

(c) Co-operation on the part of competent, leading non-officials would be welcome.

(d) Not desirable.

12. Mr. B. Venkatasamanna, B.A., B.L., asked.—(a) Will Government be pleased to state—

(a) the further steps taken in the matter of water-supply to the Tumkur town; and

(b) the extent to which they would assist the Municipality by way of contribution and loan?

Mr. M. Kantaraj Urs, B.A., C.S.I., replied.—The project is under the consideration of the Municipal Council of Tumkur.

A Bill to amend the Mysore Tramways Regulation, 1906.

Rajamantrapravina Mr. H. V. Nanjundayya.—**SIR.**—The Mysore Tramways Regulation, 1906, has been enacted chiefly with reference to cases of construction by private individuals or companies. Therefore the portions of the Regulation that relate exclusively to such individuals or companies will be found unsuitable when any tramway is worked by Government. Accordingly power has to be reserved in the Regulation to exempt Government from the operations of such sections as may be found unsuitable. This is proposed to be done by this amending Bill.

I therefore beg to move that leave be granted to introduce the Bill.

Rajasabhabhushana Dewan Bahadur Mr. K. P. Puttanna Chetty.—**SIR.**—I beg to second the proposition put forward by the learned mover. The framers of laws have always the privilege of exempting themselves from the operation of those laws. The Mysore Tramways Regulation unduly restricts the liberty of Government to undertake construction of tramways on their own account. This Council therefore need not have any hesitation in exempting Government from the operation of that Regulation.

The motion was put to vote and carried unanimously.

A Bill to amend the Law relating to Government and other Provident Funds.

Rajamantrapravina Mr. H. V. Nanjundayya.—**SIR.**—Since the State has commenced to work Railways whether owned by the State or District Boards, it is deemed necessary to start a Provident Fund Institution for the benefit of those employed on working Railways or in the offices. It is proposed to exempt the

person entitled according to the rules of the Fund, to the sum to the credit of a subscriber at his death, or his nominee, from the production of a probate or succession certificate and thereby enable him to receive the amount without the trouble and expense involved in obtaining such authority. In other cases exemption is allowed only when the amount does not exceed one thousand rupees. As the Fund is intended mainly for the benefit of the family of the subscriber it is also considered necessary to protect the money from attachment. Power is also taken for extending the provisions to other Provident Funds. The Bill is drawn up on the lines of the British Indian Act.

I beg that leave be granted to introduce the Bill.

Rajamantrapravina Dewan Bahadur Mr. J. S. Chakravarti.—SIR,—I have great pleasure in seconding the motion. The Bill is intended chiefly to protect the interests of the widows and orphans of the deceased subscribers. Suppose a subscriber to the Provident Fund dies suddenly. He is the bread winner of the family and the widow and the orphans are left helpless and destitute. With great hope the widow applies for her husband's provident fund money. Imagine, Sir, her keen disappointment and dismay when she hears from the Fund authorities that the money cannot be sent to her because it has already been paid to a Court of Law in satisfaction of some decrees of certain creditors. Again, even supposing that the money is sent to her by the Fund, what will be her feelings and position if next day an agent from a Court comes with a warrant of attachment and says that she must pay up the money to the Court. Again, take the case of the Comptroller who would be the administrator so far as the Government Provident Fund is concerned. When a subscriber dies and the widow applies for the Provident Fund money which is intended for her support what should he do? If protection is not given as contemplated in this Bill, only two courses will be open to the Comptroller—and this applies to the administrators of other Provident Funds as well—i.e., he must either ask the party to take out a certificate of succession or he must take the responsibility upon himself to pay the money to her immediately. In the first case it will mean great hardship to the widow because you all know that it is not easy for a helpless widow to get a court certificate promptly. In the second case i.e., if the administrator takes the responsibility and pays the money to the widow, then, he is sure to be favored by the attention of his lawyer friends the next day. They will ask him to quote the Regulation and the section under which the money was paid to the widow while there was a rightful owner in the shape of his client distant cousin or uncle of the deceased. Of course the provisions of this Bill are intended only to apply to honest Provident Funds. I say "honest" because the expression Provident Fund has been much abused of late in India. Many concerns have been started under the name of Provident Fund to bring profit to some people at the expense of those who reposed trust in them. Therefore the term Provident Fund has been very carefully defined in the Bill. Such Provident Funds will be of several classes. The first class is illustrated by the Mysore State Provident Fund for Government Officers. It has now already 1,800 members on the rolls though it was started only a year ago and the monthly subscription come to Rs. 6,000. This Bill has not therefore come too soon. This is the first class which receives deposits, allows compound interest on the amount paid and repays to the subscriber or his nominee the full amount at the end of his service. The next class is exemplified by the proposed railway Provident Fund which is mentioned in the Objects and Reasons. Here a subscriber pays a certain percentage of his pay regularly and a certain amount is also added on his behalf by the employer say 50 or 75 per cent on his own contribution. Here the contribution made by the individual himself may be regarded as a sort of insurance for provision in old age and the contribution made by the employer is in lieu of pension. In commercial concerns, they have to discharge the liabilities attaching to a period within the period to arrive at a true measure of profit or loss. Instead of pension system they have therefore a Provident Fund system. The employee's own contribution to the Provident Fund money is of the nature of insurance money and the other part paid by the employer is in lieu of pension. Members of this Council are aware that both insurance and pension money are under the Civil Procedure Code, exempt from attachment and are not liable for the debts incurred by the subscriber. Hence, the Provident Fund money also which takes the place of insurance and

pension under certain circumstances should enjoy similar protection. There are other kinds of Provident Fund which may come into existence in Mysore hereafter, that is, Provident Funds in which not only the employees and the employers but also the Government contribute. Such funds are common in western countries where industrial organisation has been perfected. But whatever the nature of the Provident Fund it is clear that unless protection contemplated in this Bill is given the very object of starting Provident Funds will be frustrated and the benefits will not reach the parties for whom they are intended without delay and difficulty. In fact if the Provident Fund system should be worked satisfactorily, a piece of legislation like this is not only necessary but indispensable.

I have therefore great pleasure in seconding this motion and I hope it will meet with the unanimous approval of the Council.

Rajasabhabhushana Dewan Bahadur Mr. K. P. Puttanna Chetty.—SIR,—I have great pleasure in supporting this motion. From the last speaker we have heard how this Bill is intended to benefit the widows and orphans of deceased subscribers. I am glad to observe that the beneficent provisions of the Bill will also apply to institutions like the Bank of Mysore which intends to open a Provident Fund for the benefit of its employees. Taken all things together this Bill would be a great blessing both to the officials and private institutions which come under it.

The motion was put to vote and passed.

A Bill to amend the Tank Panchayet Regulation, 1911.

Mr. M. Kantaraj Urs.—SIR,—I beg leave of the Council to introduce a Bill for amending the Tank Panchayet Regulation, 1911. This and the next Bill for which also I shall ask your leave are very short measures and will not engage the attention of the Council long. They are the outcome of the recent orders of Government regarding the restoration of minor tanks and the maintenance of tanks in general. The question of the revision of the rules for the restoration of minor tanks was discussed at the meetings of the Dasara Representative Assembly for a number of years past and it was after very careful consideration that Government passed the order referred to above, in December 1914 and also issued a revised set of rules. Under the old Rules a distinction has been drawn between tanks yielding a revenue of over Rs. 300 a year called major tanks, and those yielding a revenue of Rs. 300 and under, called minor tanks. In the case of the latter, Government undertook to do the required stone and masonry work while the raiyats carried out the earthwork. After the restoration, the tanks were handed over to the raiyats for up-keep. It was on the basis of these long-recognised principles that certain provisions of the Tank Panchayet Regulation were framed. In fact, it was never intended that the liabilities of the raiyats in this respect should in any way be affected by this Regulation. Provision is made in the Regulations for entrusting the raiyats' share of the work, *viz.*, earthwork, as also the stone and masonry work, to the Panchayet.

The main provisions of the revised scheme as embodied in the Government Order of December 1914 are:—

1. That the raiyats will be required to contribute one-third of the total cost of restoration including earthwork and stone or masonry work, the other two-thirds being met by Government; and
2. that the actual execution of the work will be entrusted to the villagers themselves subject, of course, to the condition that the work done for the tank should be checked and measured by a responsible Government agency before it is paid for.

Thus, as the basis on which Section 16 of the Regulation was framed has been changed, corresponding amendments have to be made therein. This is the main point on which it is proposed to amend the Regulation.

This opportunity is also taken to remove a slight discrepancy between the Regulation and the Rules, regarding the definition of major and minor tanks.

Under the Rules, a tank yielding a revenue of over Rs. 300 is classed as major tank, whereas under the Regulation a tank yielding not less than Rs. 300 is classed as major.

These are the only points on which it is proposed to amend the Regulation, and I request that leave may be granted to introduce the Bill.

Mr. K. R. Srinivasiengar.—SIR,—I beg to second the motion. As observed by the learned mover the object of the Bill is to harmonize the Tank Panchayet Regulation with the rules issued by Government from time to time. The Bill consists of two clauses. The first relates to the meaning of the term 'major tank.' Under the Regulation, all tanks having a revenue of Rs. 300 and upwards are treated as major, whereas according to the rules a tank with a revenue of Rs. 300 is treated as a minor one. It is, therefore, necessary to amend either the Regulation or the Rules, so as to bring the two into harmony with each other. Whether the Regulation should be changed to bring it into conformity with the Rules or the Rules modified to harmonize with the Regulation is, however, a point for consideration; and this may be considered later on when the Bill is read in Council. The second clause of the Bill only relates to a slight amendment in the wording of Section 16 (i) of the Regulation, necessitated by the recent rules issued by Government for the restoration of minor tanks.

I therefore beg to commend the motion for the acceptance of the Council.

The motion was put to vote and carried unanimously.

A Minor Tank Restoration Bill.

Mr. M. Kantaraj Urs.—SIR,—I have already stated that the previous Bill and this Bill have to be introduced in consequence of the scheme recently sanctioned by Government in regard to the restoration of the minor tanks. The scheme was discussed in great detail by the members of the Dasara Representative Assembly during the session of 1914 and they expressed themselves in favour of the main principles underlying the rules. Rule 17 runs thus:—"When the holders of at least two-thirds of the area of irrigable land under a tank agree to the restoration of the tank and to contribute their share, such consent shall be binding also on the holders of the remaining irrigable area below the tank who will then become liable to pay their share of the contribution. In default of such payment, the contribution will be recovered from them as a revenue demand."

It is in regard to the two principles enunciated in this rule, *viz.*, the binding effect of the consent of the majority on the minority, and the recovery of the amount of contribution as an arrear of land revenue, that legislation is considered necessary.

The necessity for such provision is obvious, and in its absence it is not possible to give effect to a scheme which has been sanctioned by Government after careful deliberation for a number of years and with the approval of the members of the Representative Assembly. It is an every day experience that there is a lamentable lack of co-operation among the raiyats and though the majority of raiyats may be ready and willing to do their part of the work, schemes fall through owing to the obstructive attitude of a few raiyats. The proportion of two-thirds was fixed on the analogy of Section 16 of the Tank Panchayet Regulation. The scheme should not be rendered unworkable by raising the proportion very high. Considering that the scheme sanctioned by the Government affects the welfare and prosperity of a very large portion of the raiyat population, and that for its successful execution, legislative sanction is necessary in regard to the two important provisions mentioned above, I request that leave may be granted for introducing the Bill. I may mention here that sufficient provision has been made in the Bill for the consent being recorded in writing before an officer not lower in rank than a Deputy Amildar, for the notice thereof being personally served on the holders who withhold their consent, and for an appeal to the Deputy Commissioner and for revision by the Revenue Commissioner in cases of gross illegality.

Thus, it will be seen that all possible safeguards have been provided in the Regulation to prevent anything like high-handedness in giving effect to the scheme.

I therefore, request that leave be granted to introduce the Bill.

Mr. K. R. Srinivasiengar.—**SIR**,—I beg to second the motion. Every officer who is entrusted with the duty of carrying out the minor tank restoration rules is aware of the difficulty that is experienced on account of the absence of a provision like the one proposed in the Bill to enforce against the minority the consent of the majority of the landholders under any tank in respect of the payment of the prescribed contribution. In many cases for the restoration of the tank a large number of the landholders are prepared to pay the contribution; but the work cannot be undertaken either because the minority do not co-operate with them or because the presence of some of them cannot be secured and their consent obtained; and the result is that the willing majority of landholders have to bear the whole burden themselves or the work has to be abandoned on account of the indifferent or obstructive attitude of a few persons. In these circumstances a bill like the one proposed making the consent of the majority binding on the minority is a measure of real and urgent necessity whether the majority whose will and consent should prevail should be two-thirds as proposed in the Bill or fixed somewhat higher is a point on which there may be difference of opinion; but this is a matter of detail that will no doubt receive due consideration when the Bill comes to be discussed in detail. As regards the principle of the Bill itself, I believe there can be no objection from anybody; and I therefore beg to second the motion.

Mr. M. Karnick Krishnamurthi Rao.—**SIR**,—Either in the previous Bill or in this there is no provision for tanks in inam villages. There are about 2,000 such tanks which are in a neglected condition. I therefore beg to suggest that this aspect of the question may also be considered.

The motion was put to vote and carried unanimously.

A Bill to amend the Law relating to the Transfer of Property by Act of Parties.

Rajamantrapravina Mr. H. V. Nanjundayya.—**SIR**,—Property may be transferred from one person to another in a variety of ways. It may be by operation of law or by the voluntary acts of parties. Property descends to the heirs of a man according to the laws of inheritance, the rules of Hindu Law being applied to Hindus and Mahomedan Law to Mahomedans. There are certain Acts of the Legislature such as the Indian Succession Act which also deal with this topic. Certain provisions of this Act have been incorporated in the Probate and Administration Laws and have been applied to Hindus. Property may be transferred also by wills which operate after the death of the testator.

The measure now to be placed before the Council has nothing to do with this class of transfers. It deals with what are known in law as transfers *inter vivos* or by acts of parties. These transactions generally fall under the designation of Contracts, and the Contract Act which has been in force contains a large number of general rules which are applicable to these cases also. The special contracts which are dealt with in this Act all relate to moveable property.

As for transfers of immoveable property, there is no consolidated enactment in force. Some transactions such as leases are provided for to some extent in our Revenue Code, and in the Registration and other minor laws. The transfers to be dealt with in the Transfer of Property Bill are sales, mortgages, leases, gifts and exchanges. Till now the law applied was derived from what is known as equity and good conscience, where there was no positive law. The general rules deduced out of case law, and English text books were being applied and many important points have been practically settled without much inconvenience to the Courts or any hardship to litigants. But the necessity for a consolidated Regulation has been urged upon Government from various quarters.

The Bill is based as usual on the Transfer of Property Act in force in British India. As the measure will go before a Select Committee, it is needless at this

stage to do more than indicate the particulars in which it has been considered necessary to make more than the necessary verbal alterations. The first important change relates to the provision in clause 59 about equitable mortgages. It has been represented to Government that the recognition of such mortgages would be very useful for banking transactions especially where as in Bangalore, the new Bank of Mysore has been recently carrying on a flourishing business. The section of the Indian Act assumes that such mortgages are valid in certain Presidency and other towns, independently of the Act. It is doubtful whether at present such mortgages can be validly created here and whether as a matter of fact, they are in ordinary use. The clause has therefore been altered so as to make such equitable mortgages valid when they are made, in places to which Government may extend the provision.

Section 69 of the Act which refers to powers of sale by the mortgagee is omitted, as such a power is not given to any mortgagee at present, and as it is not considered desirable to create it in favour of mortgagees.

Certain portions of the Act relating to procedure in respect of mortgage suits (Sections 85-99, except 91, 93 and 98 which are of the nature of substantive law) are now transferred to the Code of Civil Procedure, in British India. They have been incorporated in our Civil Procedure Code also as far as necessary.

The only other matters worth noting is the effect of the new Bill in regard to the making of contracts of transfer of property. Where the value of the property is one hundred rupees and above, or where the property is a reversion or other intangible thing, the transfer can be made only by means of a registered deed; and no oral sale by mere delivery of possession or transfer of pattas will be of any validity. Registration will be compulsory of all deeds even less than Rs. 100 in value. In the case of gifts of immovable property, the recognised rule of law requiring actual delivery will be abrogated where (as is necessary) the deed of gift has been registered.

There are a few other provisions, the applicability of which to local conditions is either doubtful or has to be further examined. They will no doubt receive further consideration before the final passing of the Bill. It is unnecessary to enter into further details of the measure at this stage.

I beg that leave to introduce the Bill be granted.

Mr. H. Narasinga Rao.—**SIR,**—I beg to second the motion and wish to add that our Honourable Chief Court has followed the principles of the Transfer of Property Act of British India in nine cases reported in the Mysore Chief Court Reports and in five other cases reported in the same Reports, they have declined to follow the Act. In this state of the case law, it is difficult to know exactly in what cases our Courts are going to follow the Transfer of Property Act and in what cases they do not. I therefore submit that the introduction of the Transfer of Property Act into Mysore is absolutely necessary both in the interests of our Law Courts and the litigant public.

Mr. B. Narasinga Rao.—**SIR,**—In supporting the motion for leave to introduce the Bill relating to the transfer of properties, I may be permitted to make a few observations.

It is true there is no definite and codified law in our State to govern sales, mortgages, leases and so forth. Representations were now and then being made in the Representative Assembly to bring into force the Transfer of Property Act and I was one of those who was opposing the introduction of the Act into our State. But in the light of the subsequent events, I consider that we are to have a clearly defined law on the subjects coming within its purview. Order 34 of the Civil Procedure Code, 1911, contains the adjective law relating to mortgage suits and decrees as found in the Transfer of Property Act, but the substantive law relating to the mortgages has not been brought into force here. The Hon'ble Judges of our Chief Court sometimes follow the provisions of the Transfer of Property Act on the ground that they were based on equitable principles and at other times they declined to follow the provisions of the Transfer of Property Act on the ground that the Act was not in force here and that they could not follow the provisions unless they were based on a rule of equity independent of the Act. Sometimes decisions are based on what is known as the ancient law of India. What is

ancient law on the subject or which provision of the Transfer of Property Act is based on a rule of equity, it is difficult to understand. To avoid all these confusions it is advisable to pass a law on a definite basis.

But the question is whether the Transfer of Property Act as it now stands would remedy all these defects and place the law beyond doubt. In his law of mortgages (preface to 3rd edition) that erudite lawyer and eminent jurist Dr. Sir Rash Behari Ghose has said "I speak within compass when I say that there is scarcely a single section in the chapter on mortgages in the Transfer of Property Act on which conflicting rulings cannot be found many of which, not doomed to a not very distant oblivion, the lawyer would willingly let die." I may be permitted to quote an instance to show how the said Act has worked a hardship. Under the Transfer of Property Act a mortgage deed is required to be a registered instrument attested by at least two witnesses. When the witness attested the deed on the acknowledgment of the execution by the executant and the document registered, it was held by the Privy Council that the document was not duly attested as required by law, since the attesting witness did not actually see the mortgagor signing the document and as such, invalid. The Council can conceive the hardship of the parties specially when they remember that the subject matter of the case to go before the Privy Council, must necessarily have been more than Rs. 10,000. The Indian Legislature having realized the hardship, have now introduced a Bill No. 17 of 1915, which is now on the Legislative anvil of the Imperial Council. The Bill has given a definition of the word "attest" as including the signing, by the witnesses even on the acknowledgment of execution by the executant. The Bill further proposes to give retrospective effect to the amendment, from the date of the Privy Council judgment.

In our country there are no professional conveyancers nor does the system of family lawyers to transact the business prevail. The conveyancing business is generally being done by any literate villager or a paid school master. Under these circumstances perfection in the art of conveyancing with the solemnities required by the Act cannot possibly be expected. Since the details of the provisions of the Bill are not before the Council, it is not possible now to say how it has been drafted. I humbly venture to suggest that the Bill may be so drafted as to be free from defects and avoidable technicalities, with a simple procedure suited to the condition of the State and the intelligence of the population. One more point in connection with this suggests itself to me. Order 34 of the Civil Procedure Code, 1911, containing the procedure to be followed in passing decrees on mortgage suits, requires some modifications. The Courts are required to pass two kinds of decrees "preliminary" and "final." This procedure involves loss of time and additional cost to the parties. Since the object of the preliminary decree is to give sufficient time to the debtor to repay the debt and save his property from sale, the provisions of Order 34 may be so amended as to enable the courts to pass once for all, a combined decree so that after the expiry of the time allowed in the decree it may become executable without any further application to pass another decree.

With these observations I beg to support the motion for leave being granted to introduce the Transfer of Property Bill.

Mr. M. Chengiah Chetty.—SIR,—The primary object of the Bill seems to be to complete the Contract Law with regard to immoveable property.

At present there is no statutory law to regulate the mortgages, sales, leases and gifts of immoveable property. The case law with regard to these transactions is in an unsatisfactory condition. The volume of transactions is increasing rapidly owing to the increase of economic activities in the State in various directions. Hence there is urgent necessity for the introduction of the Transfer of Property Act.

We want some legislative enactment which would clearly define what immoveable property is, what properties are transferable and what properties are not transferable; by whom properties can be transferred and to whom and under what conditions; how sales, mortgages, leases and gifts of immoveable property are to be effected; what the rights and liabilities of vendors, mortgagors, mortgagees, lessors and lessees are; what gifts are valid and what gifts are invalid, etc.

The Bill under consideration meets our requirements and sets at rest all uncertainties which hamper our courts and the litigant public.

It may be urged against the Bill that it contains unnecessary and undesirable provisions. It may be left to the Select Committee to consider the retention or the omission of such provisions and recommend the same to the Council for final decision. This objection affords no good ground for not introducing the Bill itself. I therefore heartily support the introduction of the Bill and hope it will become law as early as possible.

Rajasabhabhushana Dewan Bahadur Mr. K. P. Puttanna Chetty.—SIR,—The learned mover has exhaustively and lucidly explained the reasons for the introduction of the Bill which is long overdue. The Bank of Mysore is particularly interested in the provision relating to equitable mortgage by deposit of title-deeds as it will enhance the value of securities offered by the Bank's constituents. The details will be discussed in the select committee stage. I beg heartily to support the motion.

The motion was put vote and carried unanimously.

A Bill to amend the law relating to the registration, surveillance and control of Criminal Tribes.

Rajamantrapravina Mr. H. V. Nanjundayya.—SIR,—The question of settling the criminal tribes was raised and discussed at the last meeting of the Representative Assembly. Under the gang rules in force, the movements of the gangs are watched and supervised by the regular and the village police force. These rules are found inadequate to prevent their escape and committing depredations. To bring these gangs under effective observation and control, and to bring the law into harmony with that in British India, it is considered necessary to have a Regulation based on the lines of the British Indian Act. The provisions are permissive only, and are intended to give power to declare a tribe as criminal, to register their members, to give finger prints and generally put the tribe under observation.

The provisions of the measure no doubt bear hard on the innocent members that may exist in these gangs, and even those who are not innocent are subject to such exceptional treatment as would not be either just or tolerable if applied to ordinary subjects of His Highness. But these provisions are required to ensure general safety from the depredations of men who have made crime their habitual calling in life. Restraints on their liberty are to a smaller or larger extent now imposed on them; and this measure is meant to give a legal basis to this department of highly necessary police functions and to regulate it under a proper system of rules.

Dewan Bahadur Mr. C. Srikantesvara Aiyar.—SIR,—The subject has been very lucidly placed before you by the learned First Member of Council. The main object of the Bill is to give adequate power to the Police to control the criminal gangs and take care that they do not stop in our territory and commit depredations. The Regulation will prevent such gangs from coming and settling here on the impression that the law here is not so severe as in British India. I beg to second the motion.

The motion was put to vote and carried unanimously.

A Bill to amend the law relating to Trading Companies and other Associations.

Rajamantrapravina Mr. H. V. Nanjundayya.—SIR,—The law in force concerning companies in Mysore is Regulation III of 1895, which was based on the British Indian Act (VI of 1882) then in force. Many new and important provisions have been since introduced in British India by Acts VII of 1913 and Act XI of 1914. It is desirable to bring the law here into conformity with that in British India, as the subject of company law is eminently one of a class in which there should be as little diversity as possible between the law here and that in the surrounding territory of British India. The subject is one of more than ordinary complexity

and requires a careful study by the Members of this Council. I do not know if there will be much use in going through the details of the measure or in mentioning all the important points in which innovations will be introduced by the new measure.

It has not been considered necessary to make many more than the required verbal changes in adopting the British Indian Act for our purpose. Certain provisions concerning the opening of branches of companies registered in the United Kingdom are provisionally proposed to be omitted, as being unworkable.

Certain provisions of the Old Companies Regulation relating to arbitration, would be necessary to be repeated in the Bill, as they have been removed from the British Indian Act and embodied in a separate Act, as they found the provisions of the Specific Relief Act, the Contract Act and Civil Procedure Code in this respect inadequate. But this has not been done as it is also under contemplation to introduce an Arbitration Regulation here separately. Accordingly, clause 152 (3) contains a reference to Arbitration Regulation though it has yet to come into existence. Certain other matters of considerable importance, such for example as the provision to require accounts of all Companies (no matter what the value of their assets) to be subject to expensive annual audit by duly qualified and registered auditors, require to be carefully examined as to their effects on the Companies of Mysore, very few of which are rich enough to pay for such services.

The Bill will however receive adequate consideration in its further stages and so I need not take more time of this honourable Council.

I therefore beg to move that leave be granted to introduce the bill.

Mr. C. S. Dorasami Iyer.—SIR,—I beg to second the motion, and in doing so, I wish to say a few words.

The commercial prosperity of to-day is due mainly to joint stock enterprise as protected by the Companies Acts. If an association of individuals in any commercial enterprise desires to limit the extent of the liability of each of them it was necessary that there should be some statute to enable them to do so, as otherwise each individual member will be liable for the whole of the debts of the Company. By the Act of 1855 in England, the liability of the shareholder to the Company's creditors was limited to the amount, if any, not yet paid up upon his shares. In 1862 the Company's Act was passed in England which formed the basis in British India of the Act of 1882 till recently in force there, and which in its turn was the basis of our Regulation III of 1895 that is in force now.

In England upon the Act of 1862 have been grafted the Acts of 1890, 1900 and 1907 and the Consolidation Act of 1908 has taken the place of all these. With the growth of commercial activities in British India within the last thirty years it was found necessary to amend and recast the Act of 1882, on the lines of the English Consolidation Act of 1908, with the result that Act VII of 1913 was passed. We in Mysore ought not to lag behind if the new Act is aimed to further the commercial progress of the country and it is therefore time that in Mysore a Regulation is passed to achieve the same object. That as a matter of fact the success of commercial enterprise is helped by the Company's Act there could be no doubt whatever. In 1885 the number of Registered Companies was 9,341 with a paid up capital of £494,909,000, in 1900 when the Act was amended, in fifteen years these figures had trebled and when the Consolidation Act was passed the figures rose by leaps and bounds. The Act no doubt contains so many details of a somewhat seemingly formidable appearance, exercising perhaps a discouraging influence on the average traders and would-be-Directors and Secretaries. But in reality, however, it is simple and will no doubt promote all kinds of healthy trading and the establishment of mutual credit of a firm and lasting character.

With these observations I beg permission to second the Bill.

The motion was put to vote and carried unanimously.

The Bill further to amend the Mysore Land Revenue Code, 1888.

Rajamantrapravina Mr. H. V. Nanjundayya.—SIR,—I beg to move that the Bill further to amend the Mysore Land Revenue of 1888 be read in Council.

It is meant to introduce a slight modification in Section 54 of the Land Revenue Code. The present section reads thus—

“54. Arrears of Land Revenue due on account of land by any landholder shall be a paramount charge on the holding and every part thereof, failure in payment of which shall make the occupancy or alienated holding, together with all rights of the occupant or holder over all trees, crops, buildings and things attached to the land, or permanently fastened to anything attached to the land, liable to forfeiture, whereupon the Deputy Commissioner may levy all sums in arrear by sale of the occupancy or alienated holding, freed from all tenures, encumbrances and rights created by the occupant or holder or any of his predecessors in title, or in anywise subsisting as against such occupant or holder or may otherwise dispose of such occupancy or alienated holding under rules or orders made in this behalf under Section 233.”

The modified section reads as follows :—

“54. Arrears of land revenue due on account of land by any landholder shall be a paramount charge on the holding and every part thereof, failure in payment of which shall make the occupancy or alienated holding, together with all rights of the occupant or holder over all trees, crops, buildings and things attached to the land, or permanently fastened to anything attached to the land, liable to forfeiture, whereupon the Deputy Commissioner may levy all sums in arrear by sale of the occupancy or alienated holding, or may otherwise dispose of such occupancy or alienated holding under rules or orders made in this behalf under Section 233, and such occupancy or alienated holding when disposed of, *whether by sale as aforesaid, or by transfer to another person or otherwise howsoever, except by restoration to the defaulter*, shall, unless the Deputy Commissioner otherwise directs, be deemed to be freed from all tenures, rights, encumbrances and equities theretofore created in favour of any person other than Government in respect of such occupancy or holding.”

The amendment corresponds to Section 56 of the Bombay Land Revenue Code as amended. We have introduced one necessary qualification. When the land is restored to the defaulter concerned, it is considered unjust to free the land from all encumbrances.

Mr. K. R. Srinivasiengar.—SIR,—I beg to second the motion.

The motion was put to vote and passed unanimously.

Rajamantrapravina Mr. H. V. Nanjundayya.—SIR,—I now beg to move that the Bill be referred to a Select Committee consisting of Messrs. M. Kantaraj Urs, K. S. Dorasami Iyer, K. R. Srinivasiengar, K. P. Puttanna Chetty, B. Narasinga Rao and myself.

Mr. K. R. Srinivasiengar.—SIR,—I beg to second the motion.

The motion was put to vote and carried unanimously.

The Bill to amend the Mysore Land Acquisition Regulation, 1894.

Rajamantrapravina Mr. H. V. Nanjundayya.—SIR,—I beg to move that the Bill to amend the Mysore Land Acquisition Regulation, 1894, be read in Council. It is meant to avoid the necessity of either the Deputy Commissioner himself attending to all the proceedings in case of acquisition of even small sites or else the Government specially appointing another officer by notification as the Deputy Commissioner for each such case. The difficulty is removed by including an Assistant Commissioner in charge of a Revenue Sub-Division, under the definition of “Deputy Commissioner” in Section 3 of the Regulation.

Mr. K. R. Srinivasiengar.—SIR,—I beg to second it.

Rajasabhabhushana Dewan Bahadur Mr. K. P. Puttanna Chetty.—SIR,—On the last occasion, I had the honor to say that “the Vice-President of the Bangalore City Municipality” or some such expression should be mentioned in the Bill. The Senior Vice-President of the Municipality is a general officer entrusted

with land acquisition in the Municipality and the provision of the Bill should be worded so as to include that officer also. I believe that the learned Mover seemed to accept my proposition then.

Dewan.—If he is not a Revenue Officer can he be empowered?

Rajamantrapravina Mr. H. V. Nanjundayya.—SIR,—Under the new enactment, the Sub-Division Officer may do all acts now done by the Deputy Commissioner, without special notification. In other cases, Government may specially appoint.

The motion was put to vote and carried unanimously.

Rajamantrapravina Mr. H. V. Nanjundayya.—SIR,—As that is a non-contentious measure, I beg to move that it be not referred to a Select Committee.

Mr. K. R. Srinivasiengar.—SIR,—I beg to second this motion: but before doing so, I should like to have some doubt cleared about the provisions of the Bill. As has been explained by the learned member in charge by the Bill, it is intended to relieve the Deputy Commissioner of a number of petty cases under the Land Acquisition Regulation, which could easily and conveniently be disposed of by the Assistant Commissioner. But as the Bill is now worded, its effect will be not merely to leave the disposal of petty cases to Assistant Commissioners, but to leave it to them to dispose of all cases of whatever value and without any limit as to maximum arising in the taluks under their charge. I do not know if this is the object of Government and if it is not, the point is worth consideration; and I would suggest its being considered by a Select Committee, particularly as the Bill is not one of urgent importance.

Rajamantrapravina Mr. H. V. Nanjundayya.—SIR,—Since a doubt is raised, I beg to move that the Bill be referred to a Select Committee consisting of Messrs. M. Kantaraj Urs, K. R. Srinivasiengar, C. S. Doraswamy Iyer, H. Narasinga Rao and myself.

Mr. K. R. Srinivasiengar.—SIR,—I second it.

The motion was put to vote and carried unanimously.

The Bill further to amend the Mysore Stamp Regulation, 1900.

Rajamantrapravina Mr. H. V. Nanjundayya.—SIR,—I beg to move that the Bill further to amend the Mysore Stamp Regulation be read in Council.

Rajamantrapravina Dewan Bahadur Mr. J. S. Chakravarti.—SIR,—I beg to second it.

The motion was put to vote and carried unanimously.

Rajamantrapravina Mr. H. V. Nanjundayya.—SIR,—This is a simple measure. We want to make the duties on documents the same as in British India. I therefore beg to move that the Bill be not referred to a Select Committee, that the rules of business be suspended to allow of the Bill being considered in Council and that the Bill be so considered.

Rajamantrapravina Dewan Bahadur Mr. J. S. Chakravarti.—SIR,—I beg to second the motion. I am ordinarily against suspending the rules of business and dispensing with any of the processes through which Bills must undergo before becoming law. But there are certain cases in which it is necessary or unobjectionable to depart from the usual procedure. In this case it would be mere waste of time to follow it. In cases where the Bill is absolutely of non-contentious nature there is no use of going through all the stages prescribed and we may usefully omit one or two stages and get the Bill passed somewhat earlier. If any member feels any doubt on any point in the Bill and thinks that something can be gained by referring it to the Select Committee, by all means it should be so referred. But I do not think that there can be any conceivable difference of opinion about this Bill and it seems therefore unnecessary to appoint a Select Committee over this measure. I beg therefore to second the motion. If it is carried, this desirable amendment of law may be placed on the Statute Book as early as possible.

The motion was put to vote and carried unanimously.

Rajamantrapravina Mr. H. V. Nanjundayya.—SIR,—I beg to move that the Bill be taken up and passed at a subsequent meeting of the Council.

Rajamantrapravina Dewan Bahadur Mr. J. S. Chakravarti.—SIR,—I beg to second the motion.

The Bill further to amend the Mysore Land Revenue Code, 1888.

Rajamantrapravina Mr. H. V. Nanjundayya.—SIR,—I beg to move that the Bill further to amend the Mysore Land Revenue Code, 1888, which was introduced into Council on the 10th February 1915, be passed.

Mr. K. R. Srinivasiengar.—SIR,—I beg to second the motion.

The motion was put to vote and carried unanimously.

The Bill to consolidate and amend the law relating to Lunacy.

Rajamantrapravina Mr. H. V. Nanjundayya.—SIR,—I beg to move that the Bill to consolidate and amend the law relating to Lunacy be passed.

Mr. C. S. Doraswamy Iyer.—SIR,—I beg to second the motion.

The motion was put to vote and carried unanimously.

The meeting was adjourned *sine die*.

By Order,

G. SREENIVASA IYER,

Secretary, Mysore Legislative Council.